



UNITED STATES DEPARTMENT OF COMMERCE  
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SERIAL NUMBER	FILED DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
088156	11/22/93	GREGORY	C 26105ELEGRM

CHRISTIE, PARKER & HALE  
P.O. BOX 7068  
PASADENA, CA 91109-7068

35M1/0429

BROWNE	
ART UNIT	PAPER NUMBER
3507	13

DATE MAILED:

04/29/96

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run \_\_\_\_\_ or continues to run 3 MONTHS from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 3/25/96 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - b. ☐ They raise new issues that would require further consideration and/or search. (See Note).
  - c. ☐ They raise the issue of new matter. (See Note).
  - d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE:

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3. ☒ Upon the filing an appeal, the proposed amendment ☒ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: 32, 40-47

Claims objected to: \_\_\_\_\_

Claims rejected: 1-8, 11, 14-17

However;

☐ Applicant's response has overcome the following rejection(s): \_\_\_\_\_

4. ☐ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because \_\_\_\_\_

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

PETER R. BROWN  
PRIMARY EXAMINER  
ART UNIT 357

Art Unit: 3507

1. Claims 1-8, 11, and 14-17 are rejected under 35 U.S.C. § 103 as being unpatentable over Hake in view of either Benzick or Liou.

Hake (fig. 1) discloses a support apparatus as claimed, including a support member 28 which includes channels 32 extending therethrough, with the upper part of the channel comprising an air outlet, and the underlying support member 29 comprising an air inlet. Benzick (figs. 1-3) discloses a ventilated seat cushion having first and second porous members 19, 21, and Liou (figs. 2, 3) also shows a plurality of cushioned layers in a ventilated seat support, and in view of these suggestions, to have provided the seat of Hake with an additional cushion layer over the support member 28, for additional air dispersion or simply for comfort reasons, would have been an obvious modification to one with ordinary skill in the art.

The materials comprising the different layers of the seat cushion is considered a matter of design choice and obvious mechanical expediency, as is the mono and multi-directional nature of the porous material.

2. Claims 40 and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

3. Claims 32, 42, and 43-47 are allowable over the prior art of record.

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4. Applicant's arguments with respect to claims 1-8,11,14-17 have been considered but are deemed to be moot in view of the new grounds of rejection.

5. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Brown whose telephone number is (703) 308-2168.

  
**PETER R. CROWN**  
**PRIMARY EXAMINER**  
**ART UNIT 357**

prb  
December 18, 1995